

CHAPTER 7

The Map

GETTING TO YOUR DESTINATION

WE'RE OFF TO SEE THE WIZARD

We're off in search of justice
Justice for Washington state
We know that access isn't great
But hey, it's never too late

For justice to materialize
We're all gonna have to visualize
We'll have to use our courage, hearts and brains
We're just gonna have to cooperate

We're off to see the wizard
The wonderful wizard of Lawz.

~ ~ ~ ~ ~

*From "The Wizard of Lawz,"
written and produced for VISUALIZE JUSTICE,
Washington State's First Annual Access to Justice Conference, October 1996*

To this point you have been concerned with general preparations. You have decided upon your direction, the purpose and intent of the journey, the kind of traveler you wish to be, the identity of your companions and the "ground rules" that will govern the trip. As you begin to map out your journey, you are aware that no one can hope to reach the equal justice goal without understanding the "lay of the land," and the contours of the most common challenges. This takes planning.

How can we empower local and regional communities to develop community-based understanding of the need for equal justice, and the need to support it?

How can we nurture the development of a civil equal justice delivery system and a network that is insulated from externally-driven political forces, which tend to disfavor and treat differently those who are politically weakest and most unpopular at any given point in time?

VISUALIZE JUSTICE

*"Planning is critical
in order to both
anticipate and
accommodate the
rapid and far-
reaching changes in
the way legal
services are deliv-
ered and the way
the legal profession
operates."*

Access to Justice Board's
Revised State Plan (1999)



Mapping a route to equal justice is no different from any other complex journey

Effective planning is continuous — and will be until we solve the equal justice crisis

"To travel hopefully is a better thing than to arrive."

Robert Louis Stevenson

How do we insulate and protect poor and vulnerable clients from these unfair and disparate effects? How do we provide a system that is responsive and relevant to the lives of thousands of near-poor working people and families?

Unlike the fictional Dorothy and her companions, there is no one "Yellow Brick Road." Our equal justice road map gives us important vision and values guidance, and identifies landmarks, road signs and important topographical features, including natural features, obstacles and byways. There are many possible approaches to your destination. Some routes may come to a dead end; there may be barricades across them. Others may be so muddy that you become mired and cannot move.

You must plan for contingencies as well: you may not arrive when you planned; you may run out of gas; you may need someone to help you push the car out of the mud; and you may become lost. Storms and other factors may force you to take previously unimaginable detours with new partners. Mapping a route to equal justice — in other words — is no different from any other complex journey. You must:

- Plan multiple approaches in anticipation of dead ends and impasses.
- Consider what will happen if you run short on resources.
- Try not to be discouraged if it takes longer than anticipated to reach your destination.
- Join your traveling companions and knowledgeable others in plotting out your approaches so every partner has a stake in reaching the destination.
- Check the compass frequently — so you never lose sight of your destination, and never forget why getting there is so important.
- Find humor in your journey.

EFFECTIVE PLANNING

Planning is critical to building a viable Equal Justice Community. It takes a vision to build an Equal Justice Community and a loyal band of equal justice supporters to create the initial plan to achieve it. Effective planning is more than a report, a timetable or a set of goals: it is a process. And it is the planning process itself — if handled effectively — that will build the support needed to ultimately achieve your goals. Returning to our travel analogy, as Robert Louis Stevenson famously said: "To travel hopefully is a better thing than to arrive."

A "plan" isn't merely a document; and the planning "process" doesn't take place only in the meeting room. It isn't a one-shot proposition with a clearly identifiable beginning and end. Effective planning is continuous — and will be until we solve the equal justice crisis. This requires a tremendous amount of "out-of-the-box" thinking and "on the balls of your feet" capacity to respond to new and changing circumstances during the journey. Many basic elements are needed to fashion and carry out a process that will be meaningful to all

the stakeholders and, ultimately, to the clients we serve. The process will entail a series of agendas. But, while it will not be an express part of any agenda, the process should also embody what might be thought of as your "I"-temized List which pulls together concepts you have thought about in previous chapters, as follows:

INCLUSIVENESS

As we become more "wired," the justification for narrowing and limiting participation and input to our planning process rapidly disappears. It is relatively easy and cost-effective to cast a wide net to include the clerk of a county courthouse, a law school librarian, a court administrator, a commercial paralegal firm, legal publishers, court reporter firms, the mega-firm managing partner. Experience shows that while some choose not to participate, many others will, including some of those you least expect to do so. Experience also confirms that most if not all of the opposition to meaningful and inclusive planning that you feared, will, in fact, never materialize.

INSPIRATION

This is not the time to overlook or shelve the driving vision or the underlying principles that inspire it. After all, you are asking people to embark together on a long, grueling journey, with no guarantee that they will succeed in reaching the hoped-for destination. Every part of the process, therefore, should contain some reminder of where you are going and why it is so important to be on your chosen path together. By using the techniques discussed in Chapters 1 and 2, you can assure that the planning process itself becomes part of the construction of an inspiring movement.

INNOVATION

Be open to the introduction of something new – an original or thus far untried idea or approach. Preliminary drafts of Washington's initial State Plan were posted on the State Bar's interactive website with some trepidation. The idea proved to greatly broaden the level of participation and better inform the overall process. The most important lesson learned is that the process must be flexible, and be characterized by a markedly high tolerance for engaging in well-calculated risks. Pride — of ownership of an idea, of authorship of a document, of the ability to perform a particular set of tasks — is "old think," and it must yield to openness to new and fresh partnerships, and shared approaches.

INTEGRATION

Think of "integration," in this context, as the operational arm of inclusiveness. Everyone who wishes can participate in the planning process, but the levels and kind of involvement will be different. The overall Equal Justice Community is "integrated" only when those with substantially different and unique roles are committed to working closely together on an ongoing basis toward a common end that helps people to supersede their differences and subordinate the likelihood of competition for its own sake. Those with similar func-

"The ATJ Board's State Plan is visionary. It lays out the blueprint for the next five years. We truly believe, as LSC President John McKay often says, that 'each time someone is denied access to the justice system simply because he or she cannot afford the price of admission, a little piece of our democracy dies.'"

**Richard Eyman, WSBA
President, 1999-2000**

Those with similar functions must maintain the most complementary relationships possible to avoid duplication and to benefit from potential economies of scale.

tions must maintain the most complementary relationships possible to avoid duplication and to benefit from potential economies of scale. From experience, this kind of behavior is not automatic, and cannot be decreed. From the experience in several states, the planning process itself provides a ready opportunity for partners to practice these principles and form the habits that make a truly integrated network possible.

INFORMATION

In a collective mapping exercise, everyone must have an accurate understanding of all available details concerning the destination and the intervening terrain. Important decisions may effectively be dictated in advance by the manner in which the "facts" are gathered and presented. For this reason it seems particularly important to err on the side of too much information and avoid reliance upon "overviews" or "executive summaries."

A MEANINGFUL PLANNING PROCESS REQUIRES:

EDUCATION

Turf wars and political infighting are often fueled by groundless suspicions and overblown resentments. A well thought-out planning process creates a hospitable environment for potential partners to make their existence known and to inform others about their current and contemplated capacities, as well as about their fears and limitations.

Example: When staffed legal services programs learned the client-centered reasons that motivate a bar-sponsored volunteer lawyer program coordinator's desires for an attorney on staff who can handle some of the impossible-to-refer domestic violence cases, mutterings about "empire building" were greatly reduced.

BUY-IN

The greater the number of folks who join forces to build something, the larger the cadre of admirers, supporters and defenders. A meaningful planning process has opportunity payoffs as well as opportunity costs.

Example: The judge in an outlying rural county was given all of the background and planning information, but never weighed in or attended any of the meetings in that region of the state. Later she supports the ultimate plan and is able and willing to converse in detail about its background and particulars. Why? By means of a process that provided ample inclusiveness, information, and integration, the network afforded the judge the opportunity to be educated, to buy in and to later respond with the payoff.

*"Cheshire Puss,"
Alice began, "Would
you please tell me
which way I ought
to go from here?"*

*"That depends on
where you want to
get to," said the Cat.*

*"I don't much care
where," said Alice.*

*"Then it doesn't
matter which way
you go," said the
Cat.*

Lewis Carroll, From
"Alice in Wonderland"

LEADERSHIP

A good, open planning process necessarily presents your Equal Justice Community with the rich soil in which the seeds of future leadership can and should be planted or nurtured. The responsibility to make room for new leadership, and to actively cultivate it, is accomplished by bringing new folks in on the ground floor. The planning process is such an ideal forum for inspiration, and for the demonstration of innovation and initiative, it becomes a virtual leadership machine!

SUPPORT

The planning process can increase your base of support.

Example: At a planning meeting, the major fundraising entity for the staffed legal services programs describes its plans to implement a website portal for on-line donations. Its mission – particularly as it relates to the common goals of the overall network – is persuasively reiterated. When the anticipated system is "piloted" for the group's approval, participants offer suggestions, many of which are motivated by a desire to assure that the roles of various network partners are not slighted or discounted, and that harmful competition is minimized to the maximum extent possible. When the suggestions are acted upon, the antagonistic reactions have been substantially lessened and your support base is enlarged.

COLLABORATION

Opportunities for collaborative endeavors abound.

Example: In Washington State, the Equal Justice Community and the State Bar Association have similar long-range goals for the increased participation by attorneys in pro bono work. As a part of the planning process, it was proposed that the Equal Justice Community request the State Bar develop a plan and then adopt the plan as its own to implement (WE DON'T CARE WHO GETS THE CREDIT). Through this process, the Equal Justice Community got buy-in by the State Bar, continuing support and leadership on the initiative, and has used the implementation of the plan to provide ongoing education to the State Bar (and in turn to its members) about the needs of the civil Equal Justice Community. (See Volunteer Attorney Legal Services Action Plan: www.wsba.org/atj/plan.htm)

EVALUATION

All planning proceeds on the basis of certain premises, existing beliefs and understandings about roles and performance levels. These must be discarded if they are erroneous, and closely questioned if their continued validity is in serious doubt. The planning



***"None of this is easy.
If it were easy, it
would've been done
before."***

**Jim Bamberger,
Statewide Coordinator,
Columbia Legal Services**

***Planning:
A leadership
machine***

ZEN AND THE ART OF CIVIL EQUAL JUSTICE PLANNING

"One strategy...may be to increase staffing in the legal services programs. On the other hand, another strategy might be to work with local community partners and potential funders to place a staffed person in an existing entity (pro bono program, DV shelter, CAP) and to redirect some level of regional staffed capacity to provide support and assistance to this subregionally placed attorney."

From Regional Planning and Priorities Setting — Essential Characteristics

process thus serves as a vehicle for obtaining objective assessments about what the community is actually doing and what it is (or is not) achieving in fact.

PERSPECTIVE

It has been observed that the real meaning of travel is the discovery of oneself through contact with other people. Professionally as well as personally, most of us view our worlds through relatively fixed and narrow lenses. A serious and expansive planning process — like travel — is a broadening experience.

ZEN AND THE ART OF CIVIL EQUAL JUSTICE PLANNING

THE IMPORTANCE OF MULTIPLE STRATEGIES (PLANS) FOR BUILDING AN EQUAL JUSTICE COMMUNITY

The history of civil legal services in this country is a harsh lesson in how rapidly and unexpectedly even the best plans can be knocked off course. Until equal justice is well funded and insulated from political attack, we must have contingency plans in place to keep us headed in the right direction. To that end, we must think in terms of multiple strategies. Developing multiple strategies enhances our capacity to be flexible and resilient. It gives us the ability to recognize and capitalize upon the opportunities that may be hidden in otherwise dreadful turns of event. The task here is to:

ANTICIPATE PROBLEMS

It is important to remember that problems may be internally or externally imposed. In either case, they may be the result of financial reversals, deteriorating personal relationships, newly imposed legal constraints, shifting political winds, large changes in the extent

or impacts of poverty, or some combination of these events. The ebb and flow of funding levels from virtually all sources is the reality for civil Equal Justice Communities, and must be factored into all planning efforts. While no planning process can realistically anticipate all possible problems in advance — let alone to build in specific, detailed responses — it will often be possible to pinpoint some of the most likely "escape routes."

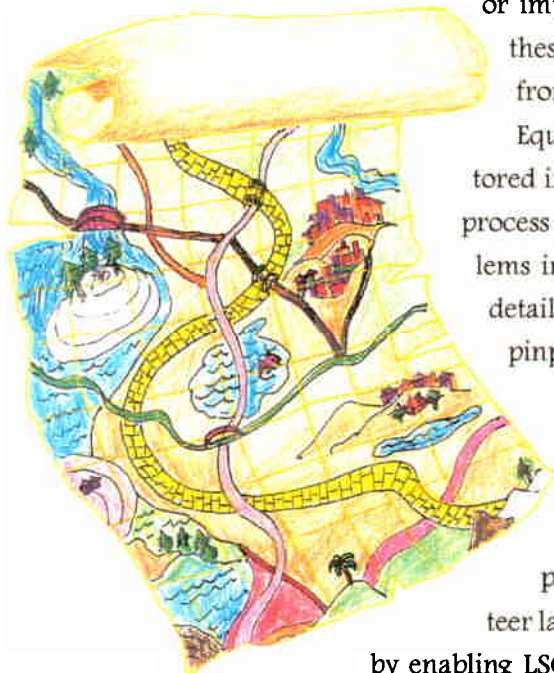


FIGURE OUT DETOURS

Example: The planning process here directed sub-grants of Legal Services Corporation (LSC) funds to free-standing volunteer lawyer programs. This served a dual purpose by enabling LSC-funded programs to support the overall

delivery system, while meeting their Private Attorney Involvement (PAI) requirement (i.e. to expend a designated percentage of their funding on permissible private bar activities). When the Case Service Reporting (CSR) controversies and requirements rendered that approach impracticable, those Equal Justice Communities that were clearly focused on a network-wide mission were able to respond in a variety of creative ways, e.g. other funds were channeled to this purpose while the PAI requirement was met in other ways. Although they had not designated a precise detour route, these communities were intimately familiar with the surrounding terrain and able to continue towards their destination with only a small detour.

DEVELOP CONTINGENCY PLANS

The planning process helps deal with “what ifs.” What will happen in your Equal Justice Community if the federal funding commitment is entirely abandoned? What if the Supreme Court ultimately determines that Interest on Lawyer Trust Account funding mechanisms are unconstitutional? What if your state should decree that its funds may no longer be used to assist public assistance recipients, or family law litigants? What if there was an infusion of substantial new resources in your state? What if the most troublesome LSC restrictions were to be removed by Congress or ruled unlawful by the Supreme Court? While it is impossible to devise specific responses for every possible contingency, the planning process must attend to the factors that will govern your community's reactions, as well as to the processes and mechanisms that would be triggered by such events.

Effective state planning is more than an analysis of the structure and function of a delivery system; it must also include building a base for, and understanding of, the system, so there is no question but that the Constitutional guarantees of civil equal access must be honored and respected.

Access to Justice Board's
Revised State Plan (1999)

“As the river takes water from the mountains to the sea, it inevitably will reach its destination, even though it may meander as it travels. So we, too, must plot our destination, knowing its end, but flexible in our path.”

Greg Dallaire, Chair, ATJ
Board Resource
Development Committee

**CHANGE IS
GOOD**

EXERCISE

- ✓ Fill in the map work sheet at the end of this chapter to make sure you have considered the following:
- Who is going?
 - Who will you pick up along the way?
 - What resources will you need to bring along?
 - Likely obstacles and roadblocks
 - Detours
 - Contingency and back-up plans when obstacles block your path
 - Check points you will use to measure your progress

REFERENCES TO PART II

Volunteer Attorney Legal Services Action Plan (Washington State Bar Association Board of Governors, 1994)

www.wsba.org/atj/plan.htm

Volunteer Attorney Legal Service Action Plan: Five-Year Progress Report (1999)

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www.wsba.org/1999/plan.htm

Communications and Technology Vision page 182
(Access to Justice Board's ComTech Committee)

Washington State Access to Justice Conference Recommendations (1999) page 131

Southwest Regional Access to Justice Conference Recommendations (1999) page 148

Washington State Bar Association Long-Range Strategic Plan
(Goal #7: Access to Justice) (1999)

www.wsba.org/c/lrsp/1999/plan.htm

Access to Justice Board's Annual Goals (2001) page 183

Regional Planning and Priorities Setting: Essential Guidelines page 184

Destination: _____

Who is going?: _____

Itinerary:

Who will you pick up along the way?: _____

What resources will you need to bring along?: _____

Likely obstacles & roadblocks: _____

Contingency & Back-up plans when obstacles block your path:

Detours: _____

Check-points you will use to measure your progress: _____